

**Enrolled Minutes of the Thirty-Seventh Regular Meeting
Of the Twenty-Sixth Highland Town Council
Monday, July 13, 2009**

Study Session. The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular but rescheduled meeting on Monday, July 13, 2009 at 6:30 O'clock P.M. in the regular place, the upper meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Konnie Kuiper, Brian Novak and Dan Vassar were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the agenda of the imminent meeting.
2. The Clerk-Treasurer made a cursory briefing regarding the 1782 Notice from the Department of Local Government Finance and the apparent cuts to LRS and MVH Funds. It was noted that the LRS Fund cuts could be reinstated and the MVH Fund cuts could be reduced, but would partly be necessary if the Town Council intended that employee pay premiums were to be carried out.
3. The Town Council discussed the enrolled proposal for equipment acquisition for Public Works to be financed over five years.
4. The Town Council discussed the possibility of conducting a disposal of surplus or unfit personal property for the municipality. The Clerk-Treasurer reported his willingness to coordinate the event but could not sooner than a sale for October or November. The Metropolitan Police Chief allowed that he would try conduct the event for a time in September.

The study session ended at 7:03 O'clock p.m.

Regular Meeting. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, July 13, 2009 at 7:05 O'clock p.m. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Dan Vassar presided and the Town Clerk-Treasurer Michael W. Griffin was present to memorialize the proceedings.

The session was opened with the Town Councilor Bernie Zemen leading the pledge of allegiance to the United States Flag and offering a prayer.

Roll Call: Councilors Bernie Zemen, Mark Herak, Brian Novak, Konnie Kuiper and Dan Vassar were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Town Council Attorney; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; William R. Timmer, CFOD, Fire Chief; Kenneth J. Mika, Building Commissioner; and Alex M. Brown, CPRP, Parks and Recreation Superintendent were present.

Lisa Gauthier and Laurel Roach of the Community Events Commission; Mark Roorda of the Town Board of Metropolitan Police Commissioners were also present.

Minutes of the Previous Session

The minutes of the regular meeting of June 22, 2009 were approved by general consent.

Special Orders:

1. **Public Hearing.** Proposed Changes to the Non Recurrent Rates and Charges of the Town of Highland Waterworks Utility.

(a) Verification of Proof of Publication. (TIMES 07-01-2009). The Town Attorney verified that the proofs of publication were in compliance with IC 5-3-1.

(b) Public Hearing. The Town Council President called the public hearing to order.

1. Joe Bartok, 9324 Spring Creek Drive, Highland, inquired whether or not the proposed rate amendments provided any discount for senior citizens. He was advised that it did not.

There were no more public comments. The hearing was closed.

(c) **Action on Proposed Ordinance No. 1426:** An Ordinance to Amend Chapter 190 of the Highland Municipal Code Regarding the Department of Waterworks by Amending portions of Section §190.11 regarding Rates and Charges, all pursuant to I.C. 36-1-4, IC 36-1-5, IC 8-1.5-3-8.1 and IC 8-1.5-4 et sequitor. *At its meeting of May 28, 2009, the Board of Waterworks Directors approved certain non recurrent fee changes and transmitted this ordinance for the consideration of the Town Council. Councilor Zemen introduced and filed the Ordinance at the Town Council meeting of June 08, 2009. In pertinent part, the governing law reads: "After the hearing, the municipal legislative body shall adopt the ordinance establishing the rates and charges, either as originally introduced or as modified. A copy of the schedule of rates and charges adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk." All pursuant to IC 8-1.5-3-8.1(c) and Section § 190.07(H)(4) of the municipal code.*

Councilor Zemen moved the passage and adoption of Ordinance No. 1426. Councilor Herak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Ordinance was adopted.

ORDINANCE No. 1426
of the
TOWN of HIGHLAND, INDIANA

AN ORDINANCE to AMEND CHAPTER 190 of the HIGHLAND MUNICIPAL CODE REGARDING the DEPARTMENT of WATERWORKS by AMENDING PORTIONS OF SECTION §190.11 REGARDING RATES AND CHARGES, all PURSUANT to I.C. 36-1-4, IC 36-1-5, IC 8-1.5-3-8.1 and IC 8-1.5-4 ET SEQUITUR.

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

WHEREAS, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through enactment of an ordinance passed by the legislative body; and

WHEREAS, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

WHEREAS, The Town of Highland, is a municipality located in Lake County, which operates a water utility, which has been continuously governed by the provisions of IC 8-1.5-4 at least since 1983;

Whereas, The Town Council as Legislative Body of the Municipality passed an Ordinance adopting the provisions of IC 8-1.5-4 establishing a department of waterworks controlled by a board of directors;

Whereas, The Board of Waterworks Directors has passed and adopted a resolution approving and recommending certain changes to non-recurrent rates and charges of the utility for adoption by the Town Council, all pursuant to IC 8-1.5-3-8.1 and Section § 190.07 of the Municipal Code;

WHEREAS, The Town of Highland, through its Town Council now wishes to further perfect its own organization as well as that of the water utility and make modifications to the provisions of the municipal code establishing and governing the Department of Waterworks, as approved and recommended by the Board of Waterworks Directors, all pursuant to IC 8-1.5-4, IC 8-1.5-3-8.1 and Section § 190.07 of the municipal code;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Town Council as the municipal fiscal and legislative body makes the following findings and determinations:

(A) That Board of Directors of the Highland Department of Waterworks, at its meeting of May 28, 2009, did pass and adopt Resolution No. 2009-009, in which among other things the Board approved certain modifications to non-recurrent rates and charges and recommended their adoption by the Town Council as desirable, and urging the Town legislative body to take steps necessary to execute this recommendation;

(B) That the recommendation for certain changes to rates and charges of the municipal water utility as approved by the Board of Waterworks Directors in the form of this ordinance, was transmitted to and filed with Clerk-Treasurer as clerk of the legislative body;

(C) That the rates and charges as recommended are found and determined to be non-discriminatory, reasonable and just rates and charges for services to the patrons of the water utility;

Section 2. That subdivision (A) of Section §190.07 of the Highland Municipal Code, be hereby amended by repealing that subdivision in its entirety and replacing it with a successor subdivision to be identified as (A), which shall read as follows:

§ 190.07 RATES AND CHARGES; BUDGETING.

(A) Pursuant to I.C. 8-1.5-4-1.5(b) ~~(c)~~, **the board of directors of the department of waterworks shall operate as the board for the purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.**

Section 3. That subdivision (B) of Section §190.08 of the Highland Municipal Code, be hereby amended by repealing that subdivision in its entirety and replacing it with a successor subdivision to be identified as (B), which shall read as follows:

§ 190.08 AUTHORITY TO ADOPT RULES; RULES AND REGULATIONS ON FILE.

(B) A copy of all rates, rules and regulations under which water service will be rendered shall be filed for the convenience of the public in the general office of the utility and the Office of the Clerk-Treasurer.

Section 4. That Section §190.11 of the Highland Municipal Code, be hereby amended to include clarifying language, to be inserted following the section heading but placed before the several subdivisions, which shall read as follows:

§ 190.11 SCHEDULE OF RATES AND CHARGES

Preamble. This schedule of rates and charges operates in concert with and complimentary to the Rules and Regulations of the Waterworks as adopted by the Board of Waterworks Directors. Any conflict between rates and charges in set forth the Rules and Regulations of the Waterworks and this chapter shall be resolved in favor of the rates and charges set forth in this section.

Section 5. That subdivision (B) of Section §190.11 of the Highland Municipal Code, is hereby repealed and now amended with a successor subdivision, styled as subdivision (B) of §190.11, which shall read as follows:

§ 190.11 SCHEDULE OF RATES AND CHARGES

(B) **Delinquent payment penalty.** All bills for water service not paid on the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten percent (10%) on the first three dollars (\$3.00) and three percent (3%) on the excess over three dollars (\$3.00). *Also see late payment charge.* (Confer Waterworks Rule 2.2)

Section 6. That subdivision (C) of Section §190.11 of the Highland Municipal Code, is hereby repealed and now amended with a successor subdivision, styled as subdivision (C) of §190.11, which shall read as follows:

§ 190.11 SCHEDULE OF RATES AND CHARGES

(C) *Schedule of nonrecurring fees and charges.* The following additional fees and charges are set forth as follows:

(1) Service Deposit:

- Residential.....\$ 30.00
Small Business 50.00
Large business (Car wash, Laundromat, restaurant).....200.00
(Confer Waterworks Rule 1.8)
- (2) Construction Water Use:
- Without meter. See building inspector for charges
(Confer Waterworks Rule 1.10)
- (3) Service Charge for Meters:
- 3/4" (5/8")..... **Meter Cost plus** 50.00
1"..... **Meter Cost plus** 50.00
1 1/2"..... **Meter Cost plus** 50.00
For larger meters Meter Cost plus 50.00
- (4) Tapping / Inspection Charge
- Residential \$200.00
Commercial/Industrial \$330.00
- (5) Meter Testing (Residential)..... \$ 35.00
Meter testing all others..... Actual cost plus \$15.00
(Confer Waterworks Rule 1.16(j))
- (6) Read-O-Matics:
- (7) Frozen or Carelessness / Repair of Meter:
- Fee scheduled by water department (Confer Waterworks Rule 1.16 (e))
- (8) **Late or delayed payment charges. A late or delayed payment penalty may be charged for unpaid balances, which may remain after one billing cycle following the delinquency.**
Three percent (3%) per month on unpaid balance
- Service Restoration Charges:**
- Turn Off Charge** \$ 15.00
Turn On Charge \$ 15.00
(Confer Waterworks Rule 1.17.1(b))
- Urgent service restoration surcharge:** \$ 50.00
In addition to the fees above, a surcharge in the identified amount will be charged to restore water services Monday through Thursday after 3:00 p.m.
- (9) **Returned or NSF Checks:.....Actual bank charge plus \$5.00 adm. fee**
(Confer Waterworks Rule 1.17.1 (h))
- (10) Maintenance of Service Pipes & Meter Boxes:
Water wastage service fee after grace period \$20 per day
(Confer Waterworks Rule 1.14)

Section 7. Schedule of Implementation. The provisions of this Ordinance shall become and be in full force and effect *on the first day of the month first following* from and after the date of its passage and adoption upon the signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 8th day of June 2009. Consideration on same day or at same meeting of introduction was not permitted, pursuant to the terms of IC 8-1.5-3-8.1 and Section § 190.07 (I).

DULY ORDAINED and ADOPTED this 13th Day of July 2009 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

2. **Public Hearing.** Considering remonstrances against the amounts set forth in the Preliminary Determination of Assessments by the Town Council associated with a project to improve the 2000-2100 blocks of Ridgewood Avenue to be known as the **Ridgewood Avenue Reconstruction Project** financing the cost of these improvements through the Municipal General Improvement Fund. (Works Board Order No. 2009-23)
 - (a) Verification of Proofs of Publication. (IC 5-3-1; IC 36-9-17). The Town Attorney verified that the proofs of publication were in compliance with IC 5-3-1.
 - (b) Open Public Hearing. *Public Hearing Issue:* Whether the lots or tracts of land have been or will be benefited by the Improvements in the amount set forth in the Assessment Roll, such greater or lesser amount, or any amount at all. The Town Council President called the hearing to order.
1. John Malayter, 8701 Idlewild, Highland, inquired about a letter that he received discussing the ways and means of the sidewalk replacement program and how it might operate in the context of a established Improvement District. It was noted that Idlewild was not the subject of the hearing but residents had been contacted by letter to encourage their review of the process for Ridgewood as it was possible that employing of a general improvement district financing may be warranted for the Idlewild public way.

There were no further comments. The public hearing was closed.

- (c) Consideration of **Confirmatory Works Board Order No. 2009-24:** An Order Confirming the Special Municipal General Improvement Fund Special Assessment Rolls for Property Owners Benefiting from the Ridgewood Avenue Reconstruction Project. (Interest and years)

Councilor Kuiper moved the passage and adoption of Works Board Order No. 2009-24, noting that waived assessments would be at the interest rate of 7.5% and would only be permitted for a term of four years. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Order was adopted.

**TOWN OF HIGHLAND
ORDER OF THE WORKS BOARD NO. 2009-24**

**A WORKS BOARD ORDER CONFIRMING THE SPECIAL MUNICIPAL GENERAL IMPROVEMENT FUND
SPECIAL ASSESSMENT ROLLS FOR PROPERTY OWNERS BENEFITING FROM THE RIDGEWOOD AVENUE
RECONSTRUCTION PROJECT**

WHEREAS, On June 22, 2009, the Town Council of the Town of Highland, Indiana, adopted Order of the Works Board No. 2009-23 entitled "*A Preliminary Order Adopting and Approving Municipal General Improvement Fund Special Assessment Rolls for Property Owners Benefiting from the Ridgewood Avenue Reconstruction Project*", a copy is attached hereto as Exhibit "A"; and

WHEREAS, The Town Council has held a public hearing, after publication of notice as required by law, and has received and heard all remonstrance from owners of property described in the notice regarding Resolution No. 2009-23; and

WHEREAS, The Town Council now desires to confirm Works Board Order No. 2009-23.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Town Council hereby confirms Resolution No. 2009-23;

Section 2. That the Town Council hereby sustains the presumptive assessments as indicated on the Assessment Roll by confirming the presumptive assessment against each of the properties described in the Assessment Roll, which confirmation is based upon this Town Council's findings concerning the special benefits that each property has received or will receive on account of the Improvements (as defined in Resolution No. 2009-23);

Section 3. The Town Council hereby directs that the Assessment Roll be delivered to the Clerk Treasurer, and that upon completion of the Improvements, the final Assessment Roll for the Improvements be delivered to the Clerk Treasurer for notification to each affected person and collection of the special assessments;

Section 4. The Town Council hereby determines that owners of properties described in the Assessment Roll may pay such assessments in annual installments over a period of **4 years**, with interest accruing on such unpaid portions at an **interest rate of 7.5%** per annum, and also approves the substantially final form of Waiver Agreement attached hereto as Exhibit "B", to be entered into by the Town and each owner of property desiring to pay the assessments in annual installments.

Be it So Ordered.

Duly adopted by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board this 13th day of July 2009 by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF
HIGHLAND, INDIANA**

Dan Vassar, President

Attest:

Michael W. Griffin, Clerk-Treasurer

Exhibit B

Assessments

Key No.	Parcel Number	Owner's name	Mailing Address	Street	Town	ST	Zip	Location Address	Street	Legal Description	Street Frontage (LF)	Curb Assess (\$14.00/LF)	Sidewalk (FT)	Sidewalk (SF)	Sidewalk Assess (\$1.50/SF)	Total Assess	Salutation	Trees
16-27-0149-0001	45-07-30-402-026.000-026	Parady Living Trust	12404	Cole Avenue	Port Charlotte	Florida	33981	2153	Ridgewood Avenue	BRANTWOOD 2ND ADD. L1 BL1	75.00	\$ 1,050.00	41.00	205.00	\$ 717.50	\$ 1,767.50	Parady Living Trust	
16-27-0149-0002	45-07-30-402-026.000-026	Giovarelli Gary J & Theresa	2149	Ridgewood Avenue	Highland	Indiana	46322	2149	Ridgewood Avenue	E 19FT OF LOT 2 & LOT 2 BLK1	90.00	\$ 1,260.00	0.00	0.00	\$ -	\$ 1,260.00	Mr and Mrs Giovarelli	
16-27-0149-0003	45-07-30-402-024.000-024	Calvin Irene X TR ET AL	2141	Ridgewood Avenue	Highland	Indiana	46322	2141	Ridgewood Avenue	BRANTWOOD 2ND ADD. W 60 FT PF L3 BL1	60.00	\$ 840.00	25.00	125.00	\$ 437.50	\$ 1,277.50	Mrs Calvin	
16-27-0149-0004	45-07-30-402-023.000-023	Needles Teresa	2139	Ridgewood Avenue	Highland	Indiana	46322	2139	Ridgewood Avenue	BRANTWOOD 2ND ADD. L4 BL1	108.75	\$ 1,522.50	15.00	75.00	\$ 262.50	\$ 1,785.00	Mrs Needles	
16-27-0562-0002	45-07-30-402-022.000-026	Bhasin Sanjay K & Carrie A H&W	2125	Ridgewood Avenue	Highland	Indiana	46322	2125	Ridgewood Avenue	JANSENS ADDITION LOT 2	103.41	\$ 1,447.74	20.00	100.00	\$ 350.00	\$ 1,797.74	Mr and Mrs Bhasin	
16-27-0149-0001	45-07-30-402-021.000-026	Pizzuto Dennis M & Patricia A (H&W)	2117	Ridgewood Avenue	Highland	Indiana	46322	2117	Ridgewood Avenue	BRANTWOOD 2ND ADD. L1 BL2	90.80	\$ 1,271.20	5.00	25.00	\$ 87.50	\$ 1,358.70	Mr and Mrs Pizzuto	
16-27-0149-0002	45-07-30-402-020.000-026	Spear Dennis J & June A	2107	Ridgewood Avenue	Highland	Indiana	46322	2107	Ridgewood Avenue	BRANTWOOD 2ND ADD. L2 BL2 E. 22 FT. OF L3	101.00	\$ 1,414.00	0.00	0.00	\$ -	\$ 1,414.00	Mr and Mrs Spear	
16-27-0149-0003	45-07-30-402-019.000-026	Lewis Michael L & Mary B	2101	Ridgewood Avenue	Highland	Indiana	46322	2101	Ridgewood Avenue	BRANTWOOD 2ND ADD. EX. E. 22 FT. L3 BL2 E. 39 FT. L4 BL2	89.50	\$ 1,253.00	14.00	70.00	\$ 245.00	\$ 1,498.00	Mr and Mrs Lewis	
16-27-0149-0004	45-07-30-402-018.000-026	Kozdowski Patricia Ann TR TR	2049	Ridgewood Avenue	Highland	Indiana	46322	2049	Ridgewood Avenue	BRANTWOOD 2ND ADD. L5 BL2 EX. E. 39 FT. L4 BL2	84.19	\$ 1,178.66	25.00	125.00	\$ 437.50	\$ 1,616.16	Mrs Kozdowski	
16-27-0207-0002	45-07-30-402-017.000-026	Bonner Roderick C ET AL TRS TR	2039	Ridgewood Avenue	Highland	Indiana	46322	2039	Ridgewood Avenue	BRANTWOOD 5TH ADD. LOT B	98.40	\$ 1,377.60	0.00	0.00	\$ -	\$ 1,377.60	Mr Bonner	
16-27-0207-0001	45-07-30-402-016.000-026	Tanner Cecil W & Estelle B	2031	Ridgewood Avenue	Highland	Indiana	46322	2031	Ridgewood Avenue	BRANTWOOD 5TH ADD. LOT A	101.55	\$ 1,421.70	0.00	0.00	\$ -	\$ 1,421.70	Mr and Mrs Tanner	
16-27-0204-0020	45-07-30-452-010.000-026	Vasendak James P Gretchen W H&W	2030	Ridgewood Avenue	Highland	Indiana	46322	2030	Ridgewood Avenue	BRANTWOOD 5TH ADD. L20 BL1	130.00	\$ 2,100.00	0.00	0.00	\$ -	\$ 2,100.00	Mr and Mrs Vasendak	
16-27-0169-0001	45-07-30-453-010.000-026	Deleuw Jack & Denise Danore JT R/S	2130	Ridgewood Avenue	Highland	Indiana	46322	2130	Ridgewood Avenue	BRANTWOOD 2ND ADD. L1 BL3	180.60	\$ 2,528.40	5.00	25.00	\$ 87.50	\$ 2,615.90	Mr Deleuw and Mrs Danore	
16-27-0161-0016	45-07-30-454-001.000-026	Schiller Thomas G & Frances J Schiller	2140	Ridgewood Avenue	Highland	Indiana	46322	2140	Ridgewood Avenue	BRANTWOOD 2ND ADD. N. 20 FT. L15 BL4 ALL L16 BL4	130.65	\$ 2,111.90	0.00	0.00	\$ -	\$ 2,111.90	Mr and Mrs Schiller	
16-27-0204-0001	45-07-30-452-001.000-026	Marich Steve W & Joan	8701	Parkway Drive	Highland	Indiana	46322	8701	Parkway Drive	BRANTWOOD 5TH ADD. L1 BL1	185.24		0.00	0.00	\$ -	\$ -	Mr and Mrs Marich	
16-27-0160-0019	45-07-30-453-001.000-026	Malyer John B & Denise M	8701	Idewild Drive	Highland	Indiana	46322	8701	Idewild Drive	BRANTWOOD 2ND ADD. L19 BL3	158.66		0.00	0.00	\$ -	\$ -	Mr and Mrs Malyer	
16-27-0161-0001	45-07-30-454-008.000-026	Hazlip William & Barbara H&W	8718	Prairie Avenue	Highland	Indiana	46322	8718	Prairie Avenue	BRANTWOOD 2ND ADD. L1 BL4	130.00		0.00	0.00	\$ -	\$ -	Mr and Mrs Hazlip	
16-27-0007-0001	45-07-30-402-001.000-026	Andrew Lee	6803 W	Beckwith	Morton Grove	Illinois	60053	2034-2026	Ridge Road	PT W1/2 E1/2 S. 20 T. 36 R. 8 CONT'G 1.591 AC	0.00	\$ -	0.00	0.00	\$ -	\$ -		
											1980.95	\$ 20,818.70	\$ 150.00	\$ 750.00	\$ 2,625.00	\$ 23,443.70		

3. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **3405 Highway Avenue**, Highland, to continue to be utilized as a **two-family residential use** located in a R-1 Zoned District (Single Family Residential District). Petitioner Mr. **Kevin Lentz**, 541 Walnut Lane, Lowell, Indiana. The Advisory Board of Zoning Appeals by a vote of five in favor and zero opposed acted to **favorably recommend the request for the use variance**. The ABZA acted at its meeting of 27 May 2009. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 24 June 2009. (90 days ends 25 August 2009.)

*Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the recommendation** and grant the requested use variance or it may **reject the recommendation** and deny the use variance.*

Councilor Herak moved to reject the recommendation of the Advisory Board of Zoning Appeals and deny the requested use variance. The motion did not obtain a second.

Councilor Kuiper moved to accept the recommendation of the Advisory Board of Zoning Appeals and grant the requested use variance. Councilor Novak seconded. Upon a roll call vote, there were four affirmatives and one negative. With Councilors Zemen, Novak, Kuiper and Vassar voting in the affirmative and Councilor Herak voting in the negative, the motion passed. The use variance was granted.

Under discussion, Councilor Herak commented on his concern about the condition of the building and historic issues at the site. It was noted that the current petitioner was a new owner.

Staff Reports: The Council received the following reports as information for the record:

- **Building & Inspection Report for June 2009**

It was noted that the Building and Inspection Report would be filed next month.

- **Fire Department Report for June 2009**

	Month	Y.T.D.	Previous Y.T.D.	Task Hours
General Alarms	10	60	76	
Car Fires	2	8	7	
Still Alarms	14	50	47	
Ambulance calls	0	0	1	

- **Workplace Safety Report for June 2009**

There was one incident reported in June. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2009	Total in 2008	Restricted Days 2009	Lost Workdays This Year	Restricted Days Last Year (2008)	Lost Workdays Last Year (2008)
Parks	0	0	3	0	0	0	0
Fire	0	0	1	0	0	0	0
Police	0	4	8	0	0	0	21
Street	0	0	6	0	0	3	2
Water & Sewer	1	2	6	0	13	0	0
Maint.	0	0	0	0	0	0	0
Other	0	0	1	0	0	0	0
TOTALS	1	6	25	0	13	3	23

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

Unfinished Business and General Orders:

1. **Proposed Ordinance No. 1428:** An Ordinance of the Town of Highland, Indiana concerning improvements by the Highland Sanitary Board through the issuance and sale of bonds, and other matters connected therewith

Councilor Herak introduced and moved the consideration at the same meeting of introduction of Ordinance No. 1428. Councilor Zemen seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered.

Councilor Herak moved the passage and adoption at the same meeting of introduction of Ordinance No. 1428. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

**ORDINANCE NO. 1428
of the
TOWN OF HIGHLAND, INDIANA**

AN ORDINANCE OF THE TOWN OF HIGHLAND, INDIANA CONCERNING IMPROVEMENTS BY THE HIGHLAND SANITARY BOARD THROUGH THE ISSUANCE AND SALE OF BONDS, AND OTHER MATTERS CONNECTED THEREWITH

WHEREAS, the Highland Sanitary Board ("Board") of the Town of Highland, Indiana ("Town") has determined to issue bonds of the Highland Sanitary District ("Sanitary District") in an amount not to exceed \$10,000,000 to construct the improvements described in the Board's Declaratory Resolution adopted on May 5, 2009 and confirmed on May 19, 2009, together with necessary appurtenances, related improvements and equipment ("Project"); and

WHEREAS, the Town Council of the Town is authorized to approve the issuance of bonds of the District;
NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND INDIANA, THAT:

Section 1. The Town Council hereby approves the issuance of bonds of the Sanitary District by the Board in an amount not to exceed \$10,000,000 to apply on the cost of the Project and further approves the issuance of a portion of the bonds as tax-exempt bonds and a portion as taxable, direct pay Build America Bonds.

Section 2. The Town represents that:

- (i) The bonds are not private activity bonds as defined in Section 141 of the Internal Revenue Code (the "Code");
- (ii) The Town hereby designates the tax-exempt bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;
- (iii) The reasonably anticipated amount of qualified tax-exempt obligations (including tax-exempt leases but excluding qualified 501(c)(3) obligations and other private activity bonds) which will be issued by the Town and all entities subordinate to the Town during 2009 does not exceed \$30,000,000; and
- (iv) The Town, any body acting in the name of the Town, and any entities subordinate to the Town, have not designated and will not designate more than \$30,000,000 of qualified tax-exempt obligations during 2009.

Therefore, the Town expects the tax-exempt bonds to qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

Section 3. Effective Date. This ordinance shall be in full force and effect from and after its passage.

Introduced and filed on the 13th day of July, 2009. Consideration on same day or at same meeting of introduction experienced a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 13th day of July, 2009, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**HIGHLAND COUNCIL OF THE TOWN OF
HIGHLAND, INDIANA**

Dan Vassar, President

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Proposed Ordinance No. 1429.1423-A:** An Ordinance to Amend the terms related to the Rainy Day Fund of the Town of Highland, pursuant to IC 36-1-8-5.1. If adopted, this will permit the costs for repairs to the Emergency Warning Siren to be born by the Rainy Day Fund.

Councilor Kuiper introduced and moved the consideration at the same meeting of introduction of Ordinance No. 1429.1423-A. Councilor Novak seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered.

Councilor Kuiper moved the passage and adoption at the same meeting of introduction of Ordinance No. 1429.1423-A. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and one negative. With Councilors Zemen, Novak, Kuiper and Vassar voting in the affirmative and Councilor Herak voting in the negative, the motion passed. The ordinance was adopted.

During discussion prior to the vote, Councilor Herak expressed his belief that the amendment permitting repair of the warning sirens to be paid from the Rainy Day Fund was not consistent with his perception of the purposes of the Rainy Day Fund and that the expense could be paid from the Budget of the Fire Department , acknowledging that it had not been expressly budgeted. Councilor Kuiper expressed his disagreement but expressed his belief that such expenses should be included in the FY 2010 Budget.

ORDINANCE NO. 1429.1423-A
of the
TOWN of HIGHLAND, INDIANA

AN ORDINANCE TO AMEND THE TERMS RELATED TO THE RAINY DAY FUND OF THE TOWN OF HIGHLAND, PURSUANT TO IC 36-1-8-5.1

WHEREAS, The Town Council is the fiscal body of the Town of Highland;

WHEREAS, IC 36-1-8-5.1 enables municipalities to establish a Rainy Day Fund whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund; and,

WHEREAS, IC 36-1-8-5.1 enables municipalities to establish a Rainy Day Fund by the adoption of an ordinance specifying the purposes of the fund and the sources of funding for the fund; and,

WHEREAS, IC 36-1-8-5.1(f) provides that the state department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the Rainy Day Fund of the political subdivision; and,

WHEREAS, IC 36-5-2-9 provides that the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

WHEREAS, IC 36-1-3-4 provides that the powers units have under IC 36-1-3-4(b)(1) are listed in various statutes, further noting that these statutes do not list the powers that units have under IC 36-1-3-4 (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power; and

WHEREAS, IC 36-1-3-4 further provides that a unit has all powers granted it by statute as well as all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute;

WHEREAS, The Town Council has determined that it would be desirable to establish a rainy day fund and to allow the fund to be used for all the lawful purposes set forth in IC 36-1-8-5; and

WHEREAS, The Town Council has determined that it is necessary, desirable and of great public benefit, to establish the fund herein referenced to support and carryout the lawful public purposes of the municipality; and

WHEREAS, It would be and is in the best interest of the Town of Highland to enact an ordinance as an amendment to the Highland Municipal Code in order to further perfect the operation of the Town;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. The Highland Municipal Code is hereby amended by adding a new Chapter to be numbered ____ and to be entitled: Rainy Day Fund, which shall read as follows:

RAINY DAY FUND

§ XXX.01 ESTABLISHMENT

(A) There is hereby authorized, created and established a fund of the Town of Highland, to be called the Rainy Day Fund, pursuant to IC 36-1-8-5.1 et seq.

(B) The Rainy Day Fund is dedicated and established for accumulating funds to provide resources to support lawful purposes of the municipality, including meeting exigencies as herein may be defined and such other purposes permitted by IC 36-1-8-5.1 and as are identified in this subchapter.

(C) The sources of funding for the Rainy Day Fund may include the following:

1. Unused and unencumbered funds transferred pursuant to and identified in IC 36-1-8-5; IC 6-3.5-1.1-21.1; IC 6-3.5-6-17.3; or IC 6-3.5-7-17.3.
2. Interest earned from the investment of moneys on deposit to the credit of the fund, provided such investments are conducted pursuant to I.C. 5-13-9 et seq.;
3. An appropriation in the annual budget in the several funds of the municipality as maybe identified and approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC 36-1-8-5.1(d);
4. Unreserved, undesignated fund balances which may be identified in the several funds of the municipality, as maybe approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC 36-1-8-5.1(d); and

(D) The Rainy Day Fund is subject to the same appropriation process as other funds of the municipality that receive tax money.

(E) In any fiscal year, the Town Council may transfer not more than ten percent (10%) of the town's total annual budget for that fiscal year, adopted under IC 6-1.1-17, to the Rainy Day Fund as authorized by IC 36-1-8-5.1.

(F) The Rainy Day Fund is established and remains in effect until such time as the fund is repealed or rescinded by action of the Town Council.

§ XXX.02 PURPOSES, USES and PERMISSIBLE EXPENDITURES

(A) Expenditures from the Rainy Day Fund shall only be used for the following purposes:

1. To make temporary transfers to other funds of the town for cash flow purposes to meet debt service, payroll and monthly accounts payable when tax revenues are not received in a timely manner to mitigate interest expense on tax anticipation debt as provided in IC 36-1-8-4;
2. To pay the deductibles on insurance not already provided for in other funds of the municipality;
3. To pay monetary settlements, damages or claims in consequence of a legal cause of action;
4. To pay and provide resources for the reimbursement of costs borne by municipal employees for medical infertility services subject to the ordinance which may authorize and establish such an employee group benefit;
5. **To pay expenses related to repairs of the emergency and weather warning siren system of the Town not already provided for in other funds of the municipality;**

(B) Notwithstanding IC 36-5-2-9.6, the *affirmative vote of four (4) members* of the Town Council is necessary for the following uses of the fund:

1. To pay the deductibles on insurance not already provided for in other funds of the municipality;
2. To pay monetary settlements, damages or claims in consequence of a legal cause of action;
3. **To pay expenses related to repairs of the emergency and weather warning siren system of the Town not already provided for in other funds of the municipality;**

§ XXX.03 EXPENDITURE UPON APPROPRIATION

Expenditures from the Rainy Day Fund may be made only upon appropriation by the fiscal body for the purpose for which the fund is specifically established, in the manner provided by statute for making other

appropriations and shall be disbursed only on approved accounts payable vouchers allowed by the legislative body, all pursuant to IC 5-11-10 and IC 36-5-4.

§ XXX.04 INVESTMENTS AUTHORIZED

Money in the Rainy Day Fund may be invested provided that the yields from the purchase and sale of any such investments shall be deposited with the fund pursuant to IC 5-13-9 and Chapter 36 of the Highland Municipal Code.

§ XXX.05 PRESERVATION and DISPOSITION OF FUND ASSETS

All unused and unencumbered cash on deposit to the credit of the Rainy Day Fund does not revert to the corporation general fund nor to any other fund but shall remain with the Rainy Day Fund until such time as an ordinance is passed and adopted regarding its disposition. Notwithstanding IC 36-5-2-9.6, an ordinance abolishing and defeasing the Rainy Day Fund and authorizes a transfer of any remaining unexpended, unencumbered assets of the fund to a particular fund, must be passed by at least four (4) members of the Town Council.

Section 2. That the provisions provided in Ordinance No. 1356 and restated in Ordinance No. 1408, which particularly provide the following are still in full force and effect:

(A) That on or about **January 1 2008**, the unobligated, unencumbered fund balance of the Health (Self) Insurance shall be transferred to and deposited to the credit of the **Rainy day Fund created by this Ordinance**, where it may be spent according to the provisions governing the fund; and

(B) That the provisions provided in Ordinance No. 1356 which particularly provide that Unless otherwise provided by act of the fiscal body, on or after October 1 2008, after all the encumbered obligated fund balance of the Health (Self) Insurance is discharged, **and following an audit by the Indiana State Board of Accounts**, the Health (Self) Insurance Fund shall be defeased, abolished and repealed in its entirety;

Section 3. That the fund established by Ordinance No. 1356, and re-established by Ordinances No. 1408 as amended, named the Rainy Day Fund, which exists at the time of the adoption of this ordinance, has continuity of existence. The cash on deposit to the credit of the fund established by Ordinance No. 1356 and re-established by Ordinance No. 1408 as well as all its assets and liabilities, held prior to the passage and adoption of this ordinance, remains with the fund. Further, the cash on deposit to the credit of the fund is hereby found to be an approved source of money for the fund.

Section 4. That any and all such ordinances in conflict with the provisions of this ordinance, including Ordinance No. 1356 and re-established by Ordinance No. 1408, as amended, subject to Section 2 of this ordinance, are hereby repealed and are of no further force or effect. The Clerk-Treasurer shall be authorized to assign appropriate section numbers in support of the codification of the particular provisions ordinance.

Section 5. This ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 13th day of July 2009. Consideration on same day or at same meeting of introduction attained 5 votes in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 13th day of July 2009 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor 1 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

ATTEST:

**Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

3. Instruct the proper officer to publish notice pursuant to IC 5-3-1 for a public hearing on proposed additional appropriations in excess of the 2009 Budget for Unsafe Building Fund, Gaming Revenue Sharing Fund, the General Improvement Fund and the Rainy Day Fund.

Councilor Herak moved to instruct the proper officer to advertise for a public hearing on proposed additional appropriations as indicated. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The public notices were authorized.

4. **Special Authorization:** Authorizing expensing warning siren repairs of May 5, 2009 in the amount of \$574.00 and June 10, 2009 in the amount of \$325.34 from the Rainy Day Fund. *This requires a simple motion but four votes in the affirmative. (This measure to be taken up only if Ord. 1429.1423-A is adopted.)*

The ordinance establishing rainy day fund requires 2/3 majorities for expenses related to (1) deductibles on insurance not already provided for in other funds of the municipality; (2) To pay monetary settlements, damages or claims in consequence of a legal cause of action; and (3) To pay expenses related to repairs of the emergency and weather warning siren system of the Town not already provided for in other funds of the municipality;

Councilor Kuiper moved to authorize the payment of repair expenses for bills as indicated from the Rainy Day Fund. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary pursuant to the rainy day fund amended ordinance, there were five affirmatives and no negatives. The motion passed. The warning siren repairs of May 5, 2009 in the amount of \$574.00 and June 10, 2009 in the amount of \$325.34 were authorized to be expensed from the Rainy Day Fund.

5. **Resolution No. 2009-33:** A Resolution Regarding the Disposition of Appropriated Resources in the Building and Inspection Department, Authorizing its transfer between categories of expense and then to the Unsafe Building Fund, pursuant to I.C. 36-7-9 et seq.

Councilor Herak moved the passage and adoption of Resolution No. 2009-33. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN COUNCIL of the TOWN of HIGHLAND
RESOLUTION NO. 2009-33**

A Resolution Regarding the Disposition of Appropriated Resources in the Building and Inspection Department, Authorizing its transfer to the Unsafe Building Fund, pursuant to I.C. 36-7-9 et seq.

WHEREAS, The Town of Highland by proper legislative action, has established an unsafe building fund, pursuant to IC 36-7-9-14, codified as Section § 210.116 of the Highland Municipal Code;

WHEREAS, Indiana Code 36-7-9-14 (b) provides that money for the unsafe building fund may be received from any source, including appropriations by local, state and federal governments and donations;

WHEREAS, The Town Council did identify appropriations that may be transferred to the Unsafe Building Fund in the budget of the Building and Inspection Department of the Corporation General Fund;

WHEREAS, The Building Commissioner as zoning administrator and responsible officer for the enforcement of the unsafe building law, has requested and recommended the identified amount be transferred to the unsafe building fund;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

Section 1. That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes herein specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

Section 2. That it has been shown that certain existing appropriations of the Building and Inspection Department of the Corporation General Fund have unobligated balances which will not be needed at this time for the purposes for which appropriated, so it will not be necessary to increase the 2009 budget, and may be transferred to a category of appropriation not heretofore present in this department or office of the fund, but now hereby authorized and established, as follows:

CORPORATION GENERAL FUND

Building and Inspection Department

Reduce Acct. 390.14 grass / Nuisance Enforcement:	\$1,745.00
Increase Acct. 310.05 Unsafe Building Demolition:	\$1,745.00

Section 3. That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes herein specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

Section 4. That the Clerk-Treasurer be and is hereby directed to transfer the following identified amount of **\$1,745.00** from the Town of Highland Building and Inspection Department of the Corporation General Fund and deposit the proceeds to the credit of the Unsafe Building Fund as follows:

CORPORATION GENERAL FUND

Building and Inspection Department

Transfer from Acct. 310.05 Unsafe Building Demolition: \$1,745.00

UNSAFE BUILDING FUND

Transfer to cash (unappropriated balance) on deposit to the fund: \$1,745.00

Section 5. That the Clerk-Treasurer as the disbursing and fiscal officer of the Municipality, is hereby instructed, authorized and directed to take such steps as necessary to carry out the purposes of this resolution..

Section 6. That the money transferred may be expended from the Unsafe Building Fund, for purposes permitted by law, and after its appropriation in the manner set forth in IC 6-1.1-18.

DULY RESOLVED and ADOPTED this 13th Day of July 2009 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

6. **Resolution No. 2009-34:** A Resolution Authorizing a Transfer to the Special Select Centennial Commission Fund of Identified Monies, pursuant to IC 36-1-3 et seq., and Ordinance No.1419 of the Town.

Councilor Novak moved the passage and adoption of Resolution No. 2009-34. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND
RESOLUTION NO. 2009-34**

A Resolution Authorizing a Transfer to the Special Select Centennial Commission Fund of Identified Monies, pursuant to IC 36-1-3 et seq and Ordinance No.1419 of the Town.

WHEREAS, The Highland Town Council did establish a **Select Centennial Commission and a Special Select Centennial Commission Fund**, by passage and adoption of Ordinance No. 1419, all pursuant to IC 36-1-3;

WHEREAS, Section 9 (D) (4) of Ordinance No. 1419 provides that sources for the Town's **Special Select Centennial Commission Fund** may include: *"Appropriations in the Corporation General Fund as may be identified by the Town Council, special appropriations in a special fund, appropriations in the fund authorized in Section § 32.44 of the municipal code or any combination of the foregoing that may be transferred into the Special Select Centennial Commission Fund by action of the Town Council"*;

WHEREAS, The Town Council of the Town of Highland has identified an amount, appropriated in the Office of the Town Council of the General Fund, representing a specific appropriation designated for transfer and has further determined that there is a need at this time to transfer that amount from the Corporation General Fund to the **Special Select Centennial Commission Fund**;

WHEREAS, The Town Council of the Town of Highland has identified an amount, appropriated in the Special Events Non Reverting Fund, representing a specific appropriation designated for transfer and has further determined that there is a need at this time to transfer that amount from the Special Events Non Reverting Fund to the **Special Select Centennial Commission Fund**;

NOW, THEREFORE BE IT RESOLVED by the Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Clerk-Treasurer be and is hereby directed to transfer the following identified amount from the Town of Highland Office of the Town Council of the Corporation General Fund and deposit the proceeds to the credit of the Special Select Centennial Commission Fund:

CORPORATION GENERAL FUND:

Office of the Town Council

Acct. No. 3XX.03 Transfer to Centennials Fund: \$ 10,000.00

Section 2. That the Clerk-Treasurer be and is hereby directed to transfer the following identified amount from the Special Events Non Reverting Fund to and deposit the proceeds to the credit of the Special Select Centennial Commission Fund:

SPECIAL EVENTS NON-REVERTING FUND:

Acct. No. 3XX.XX Transfer to Select Centennial Comm: \$ 525.00

Section 3. That the Clerk-Treasurer as the disbursing and fiscal officer of the Municipality, is hereby instructed, authorized and directed to take such steps as necessary to carry out the purposes of this resolution;

Section 4. That the money transferred may be expended from the Special Select Centennial Commission Fund, for purposes permitted by law, and after its appropriation in the manner set forth in IC 6-1.1-18.

DULY RESOLVED and ADOPTED this 13th Day of July 2009, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

7. Action regarding written request for permission to conduct a beer garden on a public property submitted by Growlers on Highway for its Second Anniversary Celebration, Saturday, August 29, 2009. The public property is the parking lot owned by the Town of Highland, Redevelopment department. *This is a controlled event under Chapter 119. Section §119.02 requires action by the Town Council in an open regular or special meeting. The Council must also fix an insurance amount.*

Councilor Zemen moved to authorize and grant a permission to conduct a beer garden on a public property by Growlers on Highway for its Second Anniversary Celebration, Saturday, August 29, 2009, according to terms set forth in the request. Councilor Herak seconded. The motion was amended as indicated below. Once the amendment was adopted. There was a roll call vote on the motion as amended. There were three affirmatives and two negatives. With Councilors Zemen, Herak and Novak voting in the affirmative and Councilors Kuiper and Vassar voting in the negative, the motion as amended passed. Growlers was granted a permission to conduct a beer garden on a public property by Growlers on Highway for its Second Anniversary Celebration, Saturday, August 29, 2009, according to terms set forth in the request, and upon proof of insurance in the amount of \$3,000,000 naming the Town as additional insured for the event.

Councilor Herak moved to amend the motion to include an requirement that Growlers evidence insurance in the amount of \$3,000,000 for the event and list the Town of Highland as additional insured. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The amendment was adopted.

8. **Works Board Order No. 2009-25:** An Order Authorizing and Approving an Eighth change order to the construction Contract R-30936-A related to the Kennedy Avenue Improvement Project, Northern Terminus at Little Calumet River and southern Terminus at Ridge Road, a Federal Aid Highway Project, all pursuant to IC 36-1-12-18

Councilor Herak moved the passage and adoption of Works Board No. 2009-25. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

THE TOWN of HIGHLAND
ORDER of the WORKS BOARD NO. 2009-25

AN ORDER AUTHORIZING and APPROVING AN EIGHTH CHANGE ORDER to the CONSTRUCTION CONTRACT R-30936-A RELATED to the KENNEDY AVENUE IMPROVEMENT PROJECT, NORTHERN TERMINUS AT LITTLE CALUMET RIVER AND SOUTHERN TERMINUS AT RIDGE ROAD, A FEDERAL AID HIGHWAY PROJECT, ALL PURSUANT TO IC 36-1-12-18

Whereas, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24 (3), has heretofore authorized and approved a public works project for street construction and other improvements in the public roadway through the assistance of federal highway aid funds, with the project commonly known as the **Kennedy Avenue Reconstruction Project**;

Whereas, In the course of the construction, reconstruction, or repair of the Kennedy Avenue Reconstruction Project, it has become necessary to change or alter the original specifications of the project;

Whereas, First Group Engineering (FGE), Incorporated, a licensed engineer performing construction engineering services on this project, at the request of the Town through its Public Works Director, has specifically identified and presented descriptions of such changes as one proposed addendum, to be known as the *eighth addenda* to the original construction contract with Grimmer Construction, Inc., particularly in support of changes in costs associated with items outlined in each order document which has a net effect of increasing the contract cost; and

Whereas, There are sufficient and available appropriations balances on hand to support any additional payments, if required, under the agreement, pursuant to IC 5-22;

Whereas, The Town of Highland, through its Town Council which is also the Board of Works, now desires to accept and issue the orders for change as described;

Now Therefore Be it hereby Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1 That the Eighth Addendum to the Construction Contract R-30936-A with Grimmer Construction, Inc. for the **Kennedy Avenue Reconstruction Project**, as prepared by First Group Engineering, Incorporated, a licensed engineer performing construction engineering services on this project, is hereby determined to be directly related to the original project and is hereby approved, adopted and ratified in each and every respect;

Section 2 That this eighth addendum is hereby ordered to be known as **Change Order No. 8**, issued to add net increases to the original agreement in the net increased amount of sixty-three thousand, eight hundred sixty-seven dollars and eighty cents (\$63,867.80), bringing the total value of the entire agreement with any and all change orders approved to date to seven million, four hundred forty-five thousand, seventy-two dollars and twenty-nine cents (\$7,445,072.29) of which twenty percent (20%) is borne locally and eighty-percent (80%) is borne by the Indiana Department of Transportation, except for changes identified as non-participating items in the amount of \$33,808.04, making the local cost of the current change order an increase of six thousand, eleven dollars and eighty-one cents (\$6,011.81) plus the \$33,808.04 for a total of \$39,819.85;

Section 3. That as any additional units of materials included in the original contract become needed, the cost of these units in this change order be the same as those shown in the original contract, all pursuant to IC 36-1-12-18(f);

Section 4. That the total of all change orders issued that increase the scope of this project may not exceed twenty percent (20%) of the amount of the original contract, that original being seven million, three hundred-thirty-five thousand, six hundred thirty-eight dollars and eighty cents (\$7,335,638.80)) which may not exceed eight million, eight hundred two thousand, seven hundred sixty-six dollars and twenty cents (\$8,802,766.20) all pursuant to IC 36-1-12-18(d);

Section 5. That the proper officers hereby be and are authorized to execute the necessary documents with their signatures.

Be it So Ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 13th day of July 2009 having passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

9. **Enactment No. 2009-35:** An Enactment to Suspend Section 2. (b) of the Wage and Salary Ordinance to authorize a retroactive pay increase with a promotion for a metropolitan police officer.

Councilor Herak introduced and moved the consideration at the same meeting of introduction of Enactment No. 2009-35. Councilor Zemen seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment could be considered.

Councilor Zemen moved the passage and adoption at the same meeting of introduction of Enactment No. 2009-35. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment was adopted.

TOWN OF HIGHLAND
ENACTMENT NO. 2009-35

AN ENACTMENT TO SUSPEND SECTION 2 (B) of the WAGE AND SALARY ORDINANCE IN ORDER TO AUTHORIZE A RETROACTIVE PAY INCREASE WITH A PROMOTION FOR A METROPOLITAN POLICE OFFICER.

WHEREAS, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

WHEREAS, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

WHEREAS, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

WHEREAS, The Town Board of Metropolitan Police Commissioners *has adopted a rule or regulation 1.1 (R) which reads in pertinent part "An experienced candidate must remain at Class 3 during the entire field training process and a minimum of an additional (90) days solo duty, after which time the officer will be evaluated for performance by his or her shift Supervisor, Division Commander and Chief of Police. The officer must meet a minimally acceptable level of four (4) on a performance evaluation. The Chief will then make a recommendation to the Police Commission as to whether the officer should be promoted to Police Officer Class 2;"*

WHEREAS, A police officer candidate, first appointed August 24, 2008, was reviewed and approved for promotion under the forging rule by the Town Board of Metropolitan Police Commissioners at its meeting of July 9, 2009 but seeks to make the effective date of the promotion and pay on May 3, 2009;

WHEREAS, Section 2. (b) of the Wage and Salary Ordinance provides in pertinent part: "Further, department heads should report any and all rates and wages as a rate per hour for all hourly wage earners and a bi-weekly rate for all salaried wage earners. *Such other increases or change of biweekly or hourly pay executed pursuant to this ordinance shall not be made effective earlier than the month in which it is properly filed;*

WHEREAS, Absent action by the Town Council, the current language governing such increases, the fiscal officer is only authorized to allow the pay change to be effective from the first day of July; and,

WHEREAS, The Town Council now desires to act to permit the promotion to be as recommended,

NOW, THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the provisions of Section 2 (b), particularly reading "*Such other increases or change of biweekly or hourly pay executed pursuant to this ordinance shall not be made effective earlier than the month in which it is properly filed,*" shall be temporarily suspended and waived for the purpose of permitting the promotion and pay increase for Officer Cortez, filed and approved July 9, 2009, to be effective from May 3rd, 2009;

Section 2. That the forgoing action is limited to the instance described and the provisions of Section 2 otherwise remain in full force and effect;

Section 3. That the Clerk-Treasurer shall have authority to implement within a reasonable time those provisions regarding wage changes occurring between the effective dates set forth retroactively in this ordinance and the date of its passage and adoption.

Introduced and Filed on the 13th day of July 2009. Consideration on same day or at same meeting of introduction was not sought, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 13th Day of July 2009, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Comments from the Town Council Members
(Good of the Order)**

- **Councilor Bernie Zemen:** • *Redevelopment Commission Liaison • Plan Commission member • Chamber of Commerce Co-Liaison • Lake County Solid Waste Management District Board of Directors • President's designee to Selection Centennial Commission.*

Councilor Zemen commended the Community Events Commission for its work on the recently concluded Independence Day Festival and Parade.

- **Councilor Mark Herak:** • *Advisory Board of Zoning Appeals, Liaison • Board of Waterworks Directors, Liaison • Community Events Commission, Liaison.*

Councilor Herak also commended the Community Events Commission for its work on the recently concluded Independence Day Festival and Parade.

- **Councilor Brian Novak:** • *Town Board of Metropolitan Police Commissioners, Liaison • Traffic Safety Commission Member • Chamber of Commerce Co-Liaison.*

Councilor Novak noted that the Police Department was moving forward with its hiring process considering candidates for appointment as a police officer funded by a COPS Grant.

- **Councilor Konnie Kuiper:** • *Fire Department Liaison • Park and Recreation Board, Liaison • Chamber of Commerce Co-Liaison.*

Councilor Kuiper commented favorably on the safety of the children during the parade this year with the greater control of the manner of distributing candy by participants in the parade.

- **Councilor Dan Vassar:** • *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Board of Sanitary Commissioners.*

Council President Vassar also commended the Community Events Commission for its work on the recently concluded Independence Day Festival and Parade.

Comments from the Public or Visitors.

1. Joe Bartok, 9324 Spring Creek Drive, Highland inquired about the status of the house on the 3400 block of Laverne Drive that was the object of a Unsafe Building enforcement. It was noted that the demolition was authorized and would soon take place.
2. James Diehl, 10104 Kennedy Avenue, Highland, expressed displeasure at the seemingly unconstrained fire works detonation through out town on dates and hours that seemed outside of that permitted by law.
3. Vernon Sieb, 3024 Lakeside Drive, Highland, inquired about the merits of the position of deputy clerk-treasurer and whether or not the position should be considered in any effort to economize in the context of budgetary constraints. The Clerk-Treasurer noted the history of the office and the value of the position.
4. James Diehl, 10104 Kennedy Avenue, Highland, inquired about the timetable for completion for the Kennedy Avenue Reconstruction Project, currently rebuilding Kennedy Avenue from Ridge Road to the Little Calumet River.

Payment of Accounts Payable Vouchers. There being no further business from the public or visitors, Councilor Zemen moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period June 23, 2009 through to July 13, 2009. Councilor Novak seconded. Upon a vote *viva voce*, the motion passed. The accounts payable vouchers were allowed and the clerk-treasurer was authorized to make payment.

General Fund, \$385,568.67; Motor Vehicle Highway and Street (MVH) Fund, \$20,674.46; Local Road and Street (LRS) Fund, \$17,321.43; VIPS/ Parks Public Safety Fund, \$1,779.69; Forfeited and Seized Assets Fund, \$4,622.51; Law Enforcement Continuing Education and Training Fund, \$4,069.00; Flexible Savings Account (FSA) Agency Fund, \$681.58; Insurance Premium Fund, \$112,096.71; Information and Communications Technology Fund, \$11,005.60; Civil Donation Fund, \$1,290.77; Special Events Non-reverting Fund, \$18,785.26; Municipal Cumulative Capital Development Fund, \$44,054.01; Safe Neighborhood Grant Fund, \$1,615.38; Municipal Cumulative Street Fund, \$2,200.00; Corporation Capital Fund, \$37,936.95; Total: \$663,702.02.

Adjournment. Councilor Herak moved that the regular meeting be adjourned. Councilor Novak seconded. Upon a vote *viva voce*, the motion passed. The regular meeting of the Town Council of **Monday, July 13, 2009** was adjourned at 8:34 O'clock p.m. There was no study session following the meeting.

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer